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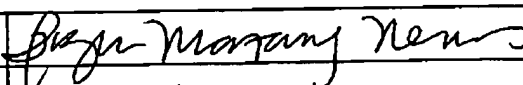
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/528,667
	Filing Date	03/21/2005
	First Named Inventor	Marie-Christine Wolf
	Art Unit	1615
	Examiner Name	Sasan, Aradhana
	Attorney Docket Number	PA/4-32689A
Total Number of Pages in This Submission		17

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Montgomery, McCracken, Walker & Rhoads		
Signature			
Printed name	Kristin Mazany Nevins		
Date	22 January 2009	Reg. No.	56,775

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Typed or printed name	Kristin Mazany Nevins	Date	21 January 2009

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ratios disclosed in Katzender are from 10:90 to about 80:20, which are outside the present invention and teach away from the weight ratio claimed by the Applicant. Applicant respectfully submits that it would not therefore have been obvious to one of ordinary skill in the art at the time the invention was made to modify the weight ratio to those claimed by the Applicant.

Here, Applicant has surprisingly found, after exhaustive testing, an oral dosage form of oxcarbazepine which can be administered once per day and which produces constant plasma levels of the monohydroxy derivate of oxcarbazepine (10,11-dihydro-10-hydroxy-5H-dibenz[b,f]azepine-5-carboxamide, referred to as MHD) over a twenty-four (24) hour period. Applicant respectfully asserts that one skilled in the art would not be led from the delivery system disclosed by Katzender because the modified release formulation discovered by Applicant.

In response, Applicant has amended Claim 8. For the reasons stated above, the prior art of Katzender and Eibl, either alone or in combination, fail to teach or suggest the required elements of Applicant's claimed invention, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) is therefore overcome.

VII. Double Patenting

The Examiner has rejected claims 1–13 on the ground of nonstatutory obviousness-type double patenting over claims 1–9, 12–13 and 15–16 of co-pending Application No. 10/598,553 in view of Katzhendler et al. (US 6,296,783).

In making the nonstatutory obviousness-type double patenting rejection, the Examiner cites a co-pending application that, according to USPTO records available via PAIR, has not yet been examined. Thus, patentable subject matter has not yet been identified in co-pending Application No. 10/598,553.

Pursuant to MPEP §804, the Examiner may continue to make a double-patenting rejection in each pending application as long as there are conflicting claims in more than one application — unless the double patenting rejection is the only rejection remaining in at least one of the applications. At that point, a terminal disclaimer would be required to bring either case to allowance, but it appears that prior to that point a terminal

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disclaimer is premature and not required prior to the identification of allowed claims. As understood by Applicant, the MPEP does not expressly require Applicant to respond to the obviousness-type double patenting rejection with a terminal disclaimer until the time at which claims are otherwise allowed and the double patenting rejection is the only rejection remaining.

PAGE 3/3 * RCVD AT 1/21/2009 2:26:03 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-4/15 * DNIS:2738300 * CSID: * DURATION (mm-ss):09-48 ..

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